

REMARKS/ARGUMENTS

Claim 29 has been amended to require the presence of least one layer L2, comprising an aliphatic polyamide. Claim 1 and examined Claim 44 support this amendment. The Examiner is reminded that examined Claim 44 was directed to exactly the same subject matter as pending Claim 29:

Claim 44: The film according to claim 29, comprising, as sole layers, at least one layer L1 and at least one layer L2.

Thus, and upon the withdrawal of the anticipation rejection over Montag, any further rejection of the pending claims may not be made Final. See MPEP 706.07(a):

706.07(a) Final Rejection, When Proper on Second Action [R-6] - 700  
Examination of Applications

706.07(a) Final Rejection, When Proper on Second Action [R-6]

Due to the change in practice as affecting final rejections, older decisions on questions of prematureness of final rejection or admission of subsequent amendments do not necessarily reflect present practice.

Under present practice, second or any subsequent actions on the merits shall be final, **except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims**, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). Where information is submitted in an information disclosure statement during the period set forth in 37 CFR 1.97(c) with a fee, the examiner may use the information submitted, e.g., a printed publication or evidence of public use, and make the next Office action .....

Because at least Claim 44 required the presence of least one layer L2, Applicants' amendment to Claim 29 cannot be said to necessitate a new ground of rejection of this claim.

New claims 49-52 are supported by Claim 1 and by specification page 11, line 4, page 8, lines 13-14, the paragraph bridging specification pages 8-9, Claim 31, and the paragraph bridging specification pages 6-7.

No new matter has been entered.

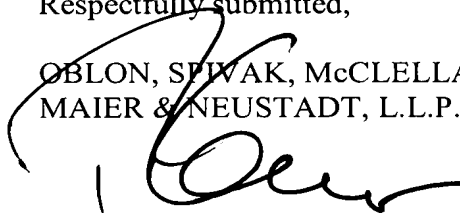
Present Claim 1 requires a film comprising, as sole layers, at least one layer L1 comprising an aromatic polyamide and an impact modifier, and, at least one layer L2 comprising an aliphatic polyamide. In addition to requiring a film, examined claim 44 required the presence of layer L2, and now all claims require L2.

Montag, cited against all claims, fails to disclose an aliphatic polyamide L2. With regard to the “sole layer” limitation, the disclosure at page 10, lines 23-31 of Montag is insufficient to meet this limitation, as defined in the present specification. With regard to the requirement for L2 in the pending claims, Montag is silent.

Accordingly, Applicants respectfully submit that Montag is insufficient to anticipate the pending claims for the reasons stated, and the reconsideration and withdrawal of the outstanding rejection is requested, as is a Notice of Allowance.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, L.L.P.



---

Richard L. Treanor  
Registration No. 36,379

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 07/09)